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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/699,720	11/03/2003	Carl A. Caspers	55508-296715	3548

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PATENT DOCKETING  
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MINNEAPOLIS, MN 55402

EXAMINER

SNOW, BRUCE EDWARD

ART UNIT PAPER NUMBER

3738

DATE MAILED: 09/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/699,720

Applicant(s)

CASPERS, CARL A.

Examiner

Bruce E. Snow

Art Unit

3738

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-4, 12-19 and 21 is/are allowed.
- 6) ☒ Claim(s) 5, 6, 9-11 and 22-33 is/are rejected.
- 7) ☒ Claim(s) 7-8, 20 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments filed 7/8/05 have been fully considered.

Regarding the rejection of claim 27 under 35 U.S.C. 112, first paragraph, applicant's cited paragraph only provides support for the force sensing resistor being not any other type of sensor. Please use page and line number when describing the cite portion of the specification; the specification does not have paragraph numbering.

Regarding the rejections in view of Havey and Mak, the Examiner's position has been clarified in the grounds of rejection.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 27-33 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Regarding claim 29, the specification fails to teach a "vibratory" alarm which is new matter.

Regarding claim 27, the specification fails to teach the pressure, temperature, moisture sensors are partially within the wall of the liner and is new matter.

***Claim Rejections - 35 USC § 102***

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 22-26 are rejected under 35 U.S.C. 102(b) as being **clearly anticipated** by Havey (Methodology-Measurements, Part II, Instrumentation and Apparatus, (applicant submitted)).

Havey teaches an apparatus for a socket (see page 2, at least "*Transducer Applications for Orthoses and Prosthesis*" including the teaching "socket pressure") comprising:

at least one of a pressure sensor (see page 10, paragraph 9, teaching "pressure transducer.. in a prosthetic socket") and a force sensor;

at least one of a temperature sensor and a moisture sensor; and

a means for indicating values sensed by at least one of the pressure sensor,

force sensor, temperature and moisture sensor; see all sections of "Signal

Conditioning/Amplification.

Additionally, claim 22 does not positively claim a socket and the preamble fails to breathe any life or meaning into the body of the claim.

Regarding claim 25, "alarm means" is broad, a high reading on a strip chart or oscilloscope will fulfill the language.

Claims 5-7, 9-11, 22, 24-29 32-33 are rejected under 35 U.S.C. 102(b) as being anticipated by Mak (State-of-the-art research in lower-limb prosthetic biomechanics-socket interface).

Mak teaches an apparatus/method comprising:

(a) prosthetic socket having at least one sensor positioned at least partially within a wall of the socket for sensing at least one of pressure and temperature

(b) an indicator of the value by the at least one sensor (inherently having some type of read out such as a oscilloscope, strip chart, etc. which is an indicator. A value limit can be zero, therefore any reading is beyond zero is an "indicator". Additionally, a sensor inherently has a limit at which it cannot read any higher.

Regarding claim 10, "vacuum" see pneumatic sensor on page 2.

Regarding at least claim 22, note page 9 teaching the heading "Skin temperature".

Regarding claim 25, "alarm means" is broad, a high reading on a strip chart or oscilloscope will fulfill the language.

Regarding at least claim 27, note page 3, line 1 et seq. teaching a liner.

***Allowable Subject Matter***

Claims 1-4, 12-19, and 21 allowed.


Claims 7-9, 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bruce E. Snow whose telephone number is (571) 272-4759. The examiner can normally be reached on Mon-Thurs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on (571) 272-4754. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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BRUCE SNOW  
PRIMARY EXAMINER